REMARKS

Claims 1-11 are pending in the application. Claims 1-11 are rejected in the Office Action. Claims 1 and 9 are amended herein. New claims 12-16 have been added. Reconsideration and allowance of claims 1-16 is respectfully requested.

Claim Rejections – 35 USC § 102

Claim 7 is rejected in the Office action under 35 U.S.C. § 102(e) as being anticipated by Sendowski et al., U.S. Patent Application Publication No. 2003/0198934 (hereinafter Sendowski). Reconsideration and allowance of claim 7 is respectfully requested.

Applicant respectfully disagrees that the Sendowski reference anticipates Applicant's claim 7. Specifically, Applicant disagrees that Sendowski teaches the step of "(b) automatically transferring said designated questionnaire to at least one loosely networked computer."

However, assuming only for purposes of argument that Sendowski does indeed substantially show or describe the applicants' invention, the Applicant hereby offers, pursuant to 37 CFR 1.131, the Inventor's Declaration that is included herewith as Exhibit A, which declaration establishes conception of the instant invention prior to Sendowski's earliest claimed priority date, coupled with due diligence from prior to Sendowski's earliest priority date through the date of filing of this application.

More particularly, Sendowski was published on October 23, 2003, from an application filed on March 29, 2002. However, the instant Applicant conclusively demonstrates in his attached Declaration that he conceived at least as early as January 1, 2002, and that he exercised due diligence from at least the date of conception until the instant application was filed on August 19, 2003, claiming priority from a United States Provisional patent application filed August 19, 2002. Thus, Sendowski must be removed as a reference with respect to this application.

Further, Sendowski does not claim the same subject matter as that claimed by the Applicant. Every pending claim (1-51) of the Sendowski reference requires the use of a "branch script object", whereas the claims of the instant application clearly exclude recitation of a branch script object. As a consequence, the application as-amended does not claim the same subject matter as Sendowski.

Still further, Sendowski, a pending application, published during the pendency of the instant application — i.e., Sendowski published in October of 2003, and the instant application was filed in August of 2003 claiming the benefit of August of 2002. Thus, applicants are not barred by Sendowski's published patent under 35 USC 102(b).

As a consequence, by virtue of the enclosed Declaration under Rule 1.131, Sendowski has been removed as a prior-art reference with respect to the subject matter of the instant application and rejection under 35 USC 102(e) is improper. Thus, Sendowski is traversed and claim 7, as well as claim 8 which depends therefrom, should be allowed to issue, which is respectfully requested

Claim Rejections – 35 USC § 103

Claims 1, 5 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lew et al., U.S. Patent Application Publication No. 2004/0210472 (hereinafter "Lew") in view of Porter, U.S. Patent Number 6,163,811 (hereinafter "Porter"). Reconsideration and allowance of claims 1, 5 and 9 is respectfully requested.

An obviousness rejection under 35 U.S.C. § 103 is evaluated by the Office in view of *Graham v. John Deere Co.*, 383 US 1 (1966). Such analysis requires: (A) the claimed invention must be considered as a whole; (B) the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) reasonable expectation of success is the standard with which obviousness is determined. See MPEP 2141.

Applicant respectfully disagrees that Applicant's claims 1, 5, and 9 would be obvious to one of skill in the art in light of the Lew reference in view of the Porter reference. Specifically, Applicant disagrees that Lew teaches or suggests "tokenizing said questionnaire" as recited in claims 1, 5, and 9.

However, assuming only for purposes of argument that Lew does indeed substantially show or describe the Applicant's invention, the Applicant hereby offers, pursuant to 37 CFR 1.131, the Inventor's Declaration that is included herewith as Exhibit A, which declaration establishes conception of the instant invention prior to Lew's

earliest claimed priority date, coupled with due diligence from prior to Lew's earliest priority date through the date of filing of this application.

More particularly, Lew was published on October 21, 2004, from an application filed on July 24, 2003, claiming priority to a Provisional application filed on July 25, 2002. However, the instant Applicant conclusively demonstrates in his attached Declaration that he conceived at least as early as January 1, 2002, and that he exercised due diligence from at least the date of conception until the instant application was filed on August 19, 2003, claiming priority from a United States Provisional patent application filed August 19, 2002. Thus, Lew must be removed as a reference with respect to this application.

Further, Lew does not claim the same subject matter as that claimed by the Applicant. As stated previously, the claims of the Lew reference do not recite "tokenizing said questionnaire", as recited in claims 1, 5, and 9 of the instant application. As a consequence, the application does not claim the same subject matter as Lew.

Still further, Lew, a pending application, published during the pendency of the instant application — i.e., Lew published in October of 2004, and the instant application was filed in August of 2003 claiming the benefit of August of 2002. Thus, applicants are not barred by Lew's published patent under 35 USC 102(b).

As a consequence, by virtue of the enclosed Declaration under Rule 1.131, Lew has been removed as a prior-art reference with respect to the subject matter of the instant application and rejection under 35 USC 103(a) is improper. Thus, the rejection of claims 1, 5, and 9 based on Lew is traversed. The Porter reference does not teach or suggest all

of the elements of claims 2-4, 6, and 10-11 as a whole as is required to sustain a rejection under 35 U.S.C. § 103. As a result, claims 1, 5, and 9, as well as claims 2-4 and 6 which depend from claim 1 and claims 10 and 11 which depend from claim 9, should be allowed to issue, which is respectfully requested.

Claims 2-4, 6, and 10-11 are rejected in the Office action under 35 U.S.C. § 103(a) as being unpatentable over Lew in view of Porter, as applied to claim 1, and further in view of Sendowski.

Applicant incorporates herein the above remarks with regard to the Lew reference. In light of the fact that the Lew reference has been removed from consideration, the rejection of claims 2-4, 6, and 10-11 under 35 U.S.C. § 103(a) is traversed. Further, Applicant incorporates herein the above remarks with regard to the fact that the Sendowski reference is traversed. The Porter reference, by itself, does not teach or suggest all of the elements of claims 2-4, 6, and 10-11 as is required to sustain a rejection under 35 U.S.C. § 103. Reconsideration and allowance of claims 2-4, 6, and 10-11 is respectfully requested.

In the Office action, claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Sendowski in view of Joao, U.S. Patent Application Publication No. 2001/0056374 (hereinafter Joao).

Applicant incorporates herein the above remarks with regard to the Sendowski reference. In light of the fact that the Sendowski reference has been removed from consideration, the rejection of claim 8 under 35 U.S.C. § 103(a) is traversed. The Joao reference alone does not teach or suggest all of the elements of claim 8 as is required to

sustain a rejection under 35 U.S.C. § 103. Reconsideration and allowance of claim 8 is respectfully requested.

Respectfully submitted,

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By _____
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